



DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

Financial Crimes Enforcement Network; Inflation Adjustment of Civil Monetary Penalties

AGENCY: Financial Crimes Enforcement Network (FinCEN), Treasury.

ACTION: Final rule.

SUMMARY: FinCEN is publishing this final rule to reflect inflation adjustments to its civil monetary penalties as mandated by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. This rule adjusts certain maximum civil monetary penalties within the jurisdiction of FinCEN to the amounts required by that Act.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory Support Section at 1-800-767-2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Background

To improve the effectiveness of civil monetary penalties (CMPs) and to maintain their deterrent effect, the Federal Civil Penalties Inflation Adjustment Act of 1990 (the Act)¹ requires Federal agencies to adjust for inflation each CMP provided by law within the jurisdiction of the agency. Under the Act, agencies are required to adjust CMPs annually and publish these adjustments in the Federal Register.² Agencies are to make the adjustments without engaging in notice-and-comment rulemaking, and these

¹ Pub. L. 101-410, as amended in 2015 by section 701 of Pub. L. 114-74 and codified as a note to 28 U.S.C. 2461.

² Act, sec. 4(a).

adjustments may be immediately effective upon publication.³ The Act provides that any increase in a CMP shall apply to CMPs that are assessed after the date the increase takes effect, regardless of whether the underlying violation predated such increase.⁴ FinCEN publishes CMP inflation adjustments in its regulations at 31 CFR 1010.821.

II. Method of Calculation

The method of calculating CMP adjustments applied in this final rule is determined by the Act. Under the Act and Office of Management and Budget (OMB) guidance, annual inflation adjustments are to be based on the percent change between the Consumer Price Index for all Urban Consumers (CPI-U) for the October preceding the date of the adjustment and the prior year's October CPI-U.⁵ As set forth in OMB Memorandum M-24-07 of December 19, 2023, the adjustment multiplier for 2024 is 1.03241. To complete the 2024 annual adjustment, each current FinCEN CMP is multiplied by the 2024 adjustment multiplier. Under the Act, any increase in CMP must be rounded to the nearest multiple of \$1.⁶

This final rule lists adjusted CMPs associated with violations of the Corporate Transparency Act (CTA)⁷ for the first time: specifically, the CMPs for beneficial ownership information (BOI) reporting violations (31 U.S.C. 5336(h)(3)(A)(i)) and for the unauthorized disclosure or use of BOI (31 U.S.C. 5336(h)(3)(B)(i)). These CMPs were established when the CTA became law in 2021, but were not published with prior adjustments because FinCEN's regulations implementing the CTA were then not yet

³ Act, sec. 4(b)(2) (adjustments are to be made "notwithstanding" the rulemaking requirements of 5 U.S.C. 553 of the Administrative Procedure Act).

⁴ The increased CMPs, however, apply only with respect to underlying violations occurring after November 2, 2015, the date of enactment of the most recent amendment to the Act. Act, sec. 6.

⁵ Act, sec. 5; OMB Mem. M-24-07 (Dec. 19, 2023).

⁶ Act, sec. 5(a). FinCEN previously applied a catch-up adjustment for each penalty subject to the Act in 2016 based on the year and corresponding amount(s) for which the maximum penalty or range of minimum and maximum penalties was established or last adjusted, whichever is later. *See Civil Monetary Penalty Adjustment and Table*, 81 FR 42503, 42504 (June 30, 2016). Because the year of establishment or last adjustment is different for different penalties, penalties that were of the same size when each was promulgated can have different values today if promulgated at different times.

⁷ The CTA is Title LXIV of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116-283 (Jan. 1, 2021). The CTA is codified at 31 U.S.C. 5336.

effective.⁸ Because these CTA-associated CMPs will be effective in 2024, they are listed in this adjustment. As these CMPs were established in 2021, they were also subject to the CMP adjustments imposed in 2022 and 2023, even though they were not published with those adjustments; accordingly, this rule applies the 2022, 2023, and 2024 adjustment multipliers to the CMPs established by the CTA.⁹

Procedural Matters

1. Administrative Procedure Act

Section 4(b) of the Act requires agencies, beginning in 2017, to make annual adjustments for inflation to CMPs notwithstanding the rulemaking requirements of 5 U.S.C. 553. Additionally, the methodology used for adjusting CMPs for inflation is provided by statute, with no discretion provided to agencies regarding the substance of the adjustments for inflation to CMPs. Accordingly, prior public notice and an opportunity for public comment and a delayed effective date are not required for this rule.

2. Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

3. Executive Order 12866.

This rule is not a significant regulatory action as defined in section 3(f) of Executive Order 12866, as amended.

⁸ The CTA's BOI reporting requirements are implemented by regulations effective January 1, 2024, and the CTA's requirements regarding BOI access and safeguards are implemented by regulations effective February 20, 2024. *See* FinCEN, Beneficial Ownership Information Reporting Requirements, 87 FR 59498 (Sept. 30, 2022); FinCEN, Beneficial Ownership Information Access and Safeguards, 88 FR 88732 (Dec. 22, 2023).

⁹ Under section 5(b)(2)(B) of the Act, the adjustment is to "be applied to the amount of the civil monetary penalty as it was most recently established or adjusted under a provision of law other than [the Act]." This amount is the penalty "established (*i.e.*, as originally enacted by Congress), or last adjusted (*i.e.*, by Congress in statute, or by the agency through regulation), whichever is later, other than pursuant to [Act]." OMB Mem. M-16-06 (Feb. 24, 2016). Because the CTA-associated CMPs were established by Congress in 2021 and have not since been adjusted by statute or regulation, they were subject to the 2022 and 2023 adjustments required by the Act, as well as the 2024 adjustment. FinCEN applied an adjustment multiplier of 1.06222 in 2022 and of 1.07745 in 2023 to CMPs. FinCEN, Inflation Adjustment of Civil Monetary Penalties, 87 FR 3433, 3434 (Jan. 24, 2022); FinCEN, Inflation Adjustment of Civil Monetary Penalties, 88 FR 3311, 3312 (Jan. 19, 2023).

4. Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 104-13, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because there are no new or revised recordkeeping or reporting requirements.

List of Subjects in 31 CFR Part 1010

Administrative practice and procedure, Aliens, Authority delegations (Government agencies), Banks and banking, Brokers, Business and industry, Commodity futures, Currency, Citizenship and naturalization, Electronic filing, Federal savings associations, Federal-States relations, Federally recognized tribes, Foreign persons, Holding companies, Indian law, Indians, Insurance companies, Investment advisers, Investment companies, Investigations, Law enforcement, Penalties, Reporting and recordkeeping requirements, Small businesses, Securities, Terrorism, Tribal government, Time.

Authority and Issuance

For the reasons set forth in the preamble, part 1010 of chapter X of title 31 of the Code of Federal Regulations is amended as follows:

PART 1010 – GENERAL PROVISIONS

1. The authority citation for part 1010 continues to read as follows:

Authority: 12 U.S.C. 1829b and 1951-1960; 31 U.S.C. 5311-5314 and 5316-5336; title III, sec. 314, Pub. L. 107-56, 115 Stat. 307; sec. 2006, Pub. L. 114-41, 129 Stat. 458-459; sec. 701, Pub. L. 114-74, 129 Stat. 599.

2. Amend §1010.821 by revising table 1 of § 1010.821 to read as follows:

§ 1010.821 Penalty adjustment and table.

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Table 1 to § 1010.821 – Penalty Adjustment Table

U.S. Code Citation	Civil Monetary Penalty Description	Penalties as Last Amended by Statute	Maximum Penalty Amounts or Range of Minimum and Maximum Penalty Amounts for Penalties Assessed On or After [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]
12 U.S.C. 1829b(j).	Relating to Recordkeeping Violations for Funds Transfers.	\$10,000	\$25,597
12 U.S.C. 1955.	Willful or Grossly Negligent Recordkeeping Violations.	\$10,000	\$25,597
31 U.S.C. 5318(k)(3)(C).	Failure to Terminate Correspondent Relationship with Foreign Bank.	\$10,000	\$17,315
31 U.S.C. 5321(a)(1).	General Civil Penalty Provision for Willful Violations of Bank Secrecy Act Requirements.	\$25,000 - \$100,000	\$69,733 - \$278,937
31 U.S.C. 5321(a)(5)(B)(i).	Foreign Financial Agency Transaction – Non-Willful Violation of Transaction.	\$10,000	\$16,117
31 U.S.C. 5321(a)(5)(C)(i)(I) .	Foreign Financial Agency Transaction – Willful Violation of Transaction.	\$100,000	\$161,166
31 U.S.C. 5321(a)(6)(A).	Negligent Violation by Financial Institution or Non-Financial Trade or Business.	\$500	\$1,394
31 U.S.C. 5321(a)(6)(B).	Pattern of Negligent Activity by Financial Institution or Non-Financial Trade or Business.	\$50,000	\$108,489
31 U.S.C. 5321(a)(7).	Violation of Certain Due Diligence Requirements, Prohibition on Correspondent Accounts for Shell Banks, and Special Measures.	\$1,000,000	\$1,731,383

U.S. Code Citation	Civil Monetary Penalty Description	Penalties as Last Amended by Statute	Maximum Penalty Amounts or Range of Minimum and Maximum Penalty Amounts for Penalties Assessed On or After [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]
31 U.S.C. 5330(e).	Civil Penalty for Failure to Register as Money Transmitting Business.	\$5,000	\$10,289
31 U.S.C. 5336(h)(3)(A)(i).	Civil Penalty for Beneficial Ownership Information Reporting Violation.	\$500	\$591
31 U.S.C. 5336(h)(3)(B)(i).	Civil Penalty for Unauthorized Disclosure or Use of Beneficial Ownership Information.	\$500	\$591

Andrea M. Gacki,
Director,
Financial Crimes Enforcement Network

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